

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

**SUMMARY OF DECISION**  
**ADMINISTRATIVE REVIEW—PERSONAL WIRELESS SERVICE FACILITY**

**File:** ZON05-00030

**Project Name:** CARILLON PANEL AND DISH ANTENNAS

**Applicant:** NORRIS BACHO FOR CLEARWIRE

**Project Planner:** SUSAN GREENE

**Date:** FEBRUARY 17, 2006

**Decision:** ☐ Denied  
☒ **Approved with the following conditions:**

**I. CONDITIONS OF APPROVAL**

- A. This application is subject to the applicable requirements contained in the Kirkland Municipal Code, Zoning Code, and Building and Fire Code. It is the responsibility of the applicant to ensure compliance with the various provisions contained in these ordinances.
- B. The antennas and proposed dish antennas together with any visible mounting brackets and/or cables shall be painted to match the building facade color.
- C. The maximum area for equipment structures is 240 square feet. This proposal is approved for 28 square feet of equipment area as shown on the approved plans dated January 24<sup>th</sup>, 2006. No portion of the equipment within the penthouse may extend above the penthouse walls.
- D. The proposed equipment structure shall comply with the noise standards found in KZC Section 117.30.7.c & 115.95.
- E. No guy or other support wires shall be used in connection with antennas, antenna arrays or support structures except when required by the IBC to anchor the antennas, antenna arrays or support structures (KZC Section 117.30.10.j).
- F. All antennas must meet or exceed current standards and regulations of the FAA, the FCC and any other agency of the Federal Government with the authority to regulate antennas. If such standards and regulations are changed, then the owners of the antennas governed by this chapter shall bring such antennas into compliance with such revised standards and regulations in accordance with the compliance deadlines and requirements of such standards and regulations. Failure to bring antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the antenna at the owner's expense (KZC 117.30.8).
- G. In the event the use of any antenna will be discontinued for a period of 60 consecutive days, the owner or operator shall so notify the City in writing, and the tower or antenna shall thereafter be deemed to be abandoned. Determination of the date of abandonment shall be made by the City which shall have the right to request documentation and affidavits from the

antenna owner or operator regarding the issue of antenna usage. Upon such abandonment, the owner or operator of the antenna or the owner of the property upon which such facility is located shall have an additional 60 days within which to:

- a. Reactivate the use of the antenna or transfer the antenna to another owner or operator who makes actual use of the antenna; or
- b. Dismantle and remove the antenna. If such antenna is not removed within said 60 days from the date of abandonment, the City may remove such antenna at the facility owner's and property owner's expense.

At the earlier of 60 days from the date of abandonment without reactivation or upon completion of dismantling and removal, City approval for the antenna shall automatically expire.

- H. Prior to issuance of a building permit or right-of-way permit, the applicant shall:
  1. Register with the City Clerk as required by Kirkland Municipal Code Section 26.08 and Zoning Code Section 117.45.1 and submit a copy of the registration along with the submittal of a building permit or right-of-way permit for the wireless facility (see Attachment 1).
  2. Submit a completed Personal Wireless Service Facility (PWSF) facility annual report form for the proposed facility to the Planning Department (see Attachment 2).
  3. KZC Section 117.45.12 requires that the personal wireless services provider must demonstrate that it is licensed by the FCC, if required to be licensed under FCC. Provide proof that Clearwire is licensed by the FCC.

## II. GENERAL INFORMATION

- A. Site Location: 3240 Carillon Point (see Attachment 3).
- B. Existing Site Conditions: The proposed antennas would be on an existing office building within a mixed use Master Plan Development including commercial, office marina and residential.
- C. Description of Proposal (see Attachment 3 for applicant proposal):
  1. Antennas: The applicant is proposing to install 3 panel antennas and 2 dish antennas located on an existing mechanical penthouse facade.
  2. Equipment Structure: The equipment structure consists of one cabinet and a small HVAC unit and GPS antenna which are both attached to the cabinet. The entire area square footage for the equipment will be 28 square feet and it will all be housed within an existing mechanical penthouse. The existing mechanical penthouse screening that houses the proposed equipment does not have a roof.
  3. Screening: The applicant is proposing the following screening technique(s):
    - ☐ Solid sight obscuring fence
    - ☐ Landscape buffer that at a minimum complies with Kirkland Zoning Code (KZC) 95.25(3)
    - ☒ Existing rooftop mechanical screen architecturally compatible with the building
    - ☐ No screening is proposed since the wireless facility is located within a building
    - ☒ Paint to match wall or mechanical screen
    - ☐ Other -
- D. Zoning: PLA 15A zoning district. The site is located in a non-residential zone as defined in KZC Section 117.05.9 and 11.

## III. COMPLIANCE WITH ZONING CODE CHAPTER 117

Wireless facilities that can be approved through the administrative process are facilities that have very minimal visual and physical impacts on the surrounding neighborhoods given the zoning and type of facility. The following is a review, in a checklist format, of the regulations in KZC Chapter 117 as it pertains to wireless facilities qualified for the administrative review process.

Not Applicable	Complies	Condition to be added	Code Section
			<b>WIRELESS FACILITIES – ANTENNAS</b>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The proposed panel antennas and dish antennas are located on an existing mechanical screen which is architecturally compatible with the surrounding buildings and land uses and blends in with the existing characteristics of the site (KZC Section 117.30.2).
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Antennas may be attached to ball field light standards, electrical transmission towers, water tanks or existing utility poles. Whip antennas may exceed the structure height by a maximum of 15 feet and other antennas may exceed the structure height by a maximum of 10 feet (KZC Section 117.20.a.4).
<input type="checkbox"/>			<b>117.30.3 Concealment Technology.</b>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Omni-directional antennas 15 feet or less above the roof. The proposed color is compatible with the roof, structure, or background (KZC Section 117.30.3.b).
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Antennas other than omni-directional antennas. The proposal utilizes compatible color and architectural screening (KZC Section 117.30.3.b). The panel and dish antennas will be painted to match the mechanical penthouse façade.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The applicant has chosen to use the same color of paint as the background of the penthouse, and the City has determined that, the proposed concealment techniques meet the criteria of 117.30.3.b.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The proposed antennas are integrated into the design of any existing or support structure to which they are attached. External projections from existing structure or support structure shall be limited to the greatest extent technically feasible (KZC Section 117.30.3.b).
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	For antennas mounted on one or more building facades, concealment technology shall consist of using color and materials such that the facility is architecturally compatible with the building. It shall be mounted on a wall of an existing building in a configuration as flush to the wall as technically possible and shall not project above the wall on which it is mounted (KZC Section 117.30.3.c).
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Other:
<input type="checkbox"/>			<b>117.30.5 Views.</b>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The proposed wireless facility is located and oriented in such a way that view blockage is minimized.

Not Applicable	Complies	Condition to be added	Code Section
<input type="checkbox"/>			<b>117.30.10 Roof Mounted Antennas</b>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The roof mounted antennas are consolidated and centered on the roof to the maximum extent feasible and are not scattered (KZC Section 117.30.10.e).
			<b>WIRELESS FACILITIES - EQUIPMENT STRUCTURES</b>
<input type="checkbox"/>			<b>117.30.3 Concealment Technology.</b>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The equipment structure is located within an existing mechanical penthouse and does not need additional screening. There are taller portions of the equipment which may not extend above the penthouse walls since this portion of the penthouse does not have a roof. (KZC 117.30.3.d.).
<input type="checkbox"/>			<b>117.30.4 Setbacks.</b>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The proposed ground mounted personal wireless facility is located at least a distance equal to 100 percent of the antenna height from any property line adjacent to or across the street from a residential use or residential zone (KZC Section 117.30.4).
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The proposed ground mounted personal wireless facility is located at least 10 feet from any property line adjacent to or across the street from all uses or zones other than residential (KZC Section 117.30.4).
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No setback is required (when located in a right-of-way).
<input type="checkbox"/>			<b>117.30.7 Equipment Structures.</b>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The proposed equipment structure is compatible with the surrounding area in which it is located (KZC Section 117.30.7.a).
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Equipment structures are oriented so that exhaust ports or outlets are pointed away from properties which may be impacted by noise (KZC Section 117.30.7.c).
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The proposed equipment structure complies with the noise standards found in KZC Section 117.30.7.c & 115.95.
<input checked="" type="checkbox"/>			<b>EQUIPMENT STRUCTURES - RESIDENTIAL ZONE</b>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The proposed gross floor area of the equipment structure is . The maximum area for equipment structures is 240 square feet (KZC Section 117.30.7.b).
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The volume of the proposed equipment structure is . The maximum volume of equipment structures is 500 cubic feet per provider in residential zones (KZC Section 117.20.a.3).

Not Applicable	Complies	Condition to be added	Code Section
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The proposed height of the equipment structure is . The maximum height limit is 5 feet in residential zones (KZC Section 117.20.1.a.3).
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>EQUIPMENT STRUCTURES - NON-RESIDENTIAL ZONE</b>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The proposed gross floor area of the equipment structure is 28 square feet. The maximum area for equipment structures is 240 square feet (KZC Section 117.30.7.b).
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The proposed height of the equipment structure is 4'2"; the attached GPS antenna is 7'8" and the bridge post that connects the coax cables with the equipment unit is 10' tall. The maximum height limit is 10 feet in non-residential zones (KZC Section 117.30.7.b).
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>117.30.10 Antennas and Equipment Structures On or Above a Structure</b>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	All appurtenances and screening (including personal wireless facilities) does not exceed 5% of the total roof area of a building and/or 5% of any façade of a building. The applicant is proposing 1.8% of facade area coverage for the antennas and the proposed equipment is 28 square feet on a large rooftop area (KZC Section 117.20.2).
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Only omni-directional antennas may be roof mounted (KZC Section 117.30.10.b). The height of the proposed omni-directional antenna is feet. This meets the maximum height limit of 10 feet (omni-directional antenna) measured from the top of the roof (KZC Section 117.30.10.a).
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The setback from the edge of the roof to the proposed omni-directional antenna is at least 100 percent of the antenna height. The antenna height is and the proposed set back is 10 feet (omni-directional antenna) (KZC Section 117.30.10.c).
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The roof mounted antennas and equipment structures are incorporated into the pitched or stepped roof form, and do not appear as a separate penthouse or box (KZC Section 117.30.10.d).
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	In no instance shall equipment structures, antenna and related equipment occupy more than 25% of the total roof area of a building (KZC Section 117.30.10.g).
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>117.35 Landscaping/Buffering</b>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Landscaping, as described herein, shall be required to screen any ground level features (such as an equipment structure), and in general soften the appearance of the site. The City may require any other form of concealment technology if it achieves the same degree of screening as the required landscaping. The effectiveness of visual mitigation techniques must be evaluated by the City, in the City's discretion, taking into consideration the site as built. If the antenna is mounted on an existing building, and the

Not Applicable	Complies	Condition to be added	Code Section
			equipment structure is housed inside the building, landscaping shall not be required (KZC Section 117.35.1).
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Existing vegetation shall be preserved or improved, and disturbance of the existing topography of the site shall be minimized, unless such disturbance will result in less visual impact of the site on the surrounding area (KZC Section 117.35.2).
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Buffering of ground-mounted personal wireless facilities is proposed. Landscape buffer at a minimum shall comply with KZC 95.25(3), except all trees must be evergreen (KZC Section 117.35.3).
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Chain link, plastic, vinyl, or wire fencing is prohibited (KZC Section 117.35.4). The applicant is proposing.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	In the event that landscaping is not maintained at the required level, the City, after giving 30 days' advance written notice to the provider, may maintain or establish the landscaping and bill both the landowner and provider for such costs until such costs are paid in full (KZC Section 117.35.5).
			<b>MISCELLANEOUS REQUIREMENTS</b>
<input type="checkbox"/>			<b>117.30.8 Federal Requirements.</b>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	All antennas must meet or exceed current standards and regulations of the FAA, the FCC and any other agency of the Federal Government with the authority to regulate antennas. If such standards and regulations are changed, then the owners of the antennas governed by this chapter shall bring such antennas into compliance with such revised standards and regulations in accordance with the compliance deadlines and requirements of such standards and regulations. Failure to bring antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the antenna at the owner's expense (KZC 117.30.8). The applicant has submitted a notarized document describing their compliance with FAA and FCC regulations (see Attachment 4)
<input type="checkbox"/>			<b>117.30.10 Wireless Facility –Miscellaneous</b>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The property is not designated as a historic resource or community landmark as identified in the Comprehensive Plan (KZC Section 117.30.10.h).
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	No antennas shall cause localized interference with the transmission or reception of any other communications signals including but not limited to, public safety signals, and television and radio broadcast signals (see Attachment 4) (KZC Section 117.30.10.i).
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	No guy or other support wires shall be used in connection with antennas, antenna arrays or support structures except when required by the IBC to anchor the antennas, antenna arrays or support structures (KZC Section

Not Applicable	Complies	Condition to be added	Code Section
			117.30.10.j).
<input type="checkbox"/>			<b>117.40 Non-Use/Abandonment</b>
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	KZC 117.40.2 requires that the provider must confirm in writing to the City on an annual basis that the personal wireless service facility is still in use on a form to be provided by the City.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<p>KZC 117.40.3 requires that in the event the use of any tower or antenna will be discontinued for a period of 60 consecutive days, the owner or operator shall so notify the City in writing, and the tower or antenna shall thereafter be deemed to be abandoned. Determination of the date of abandonment shall be made by the City which shall have the right to request documentation and affidavits from the tower or antenna owner or operator regarding the issue of tower or antenna usage. Upon such abandonment, the owner or operator of the tower or antenna or the owner of the property upon which such facility is located shall have an additional 60 days within which to:</p> <ul style="list-style-type: none"> <li>a. Reactivate the use of the tower or antenna or transfer the tower or antenna to another owner or operator who makes actual use of the tower or antenna; or</li> <li>b. Dismantle and remove the tower or antenna. If such tower or antenna is not removed within said 60 days from the date of abandonment, the City may remove such tower or antenna at the facility owner's and property owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower.</li> </ul> <p>At the earlier of 60 days from the date of abandonment without reactivation or upon completion of dismantling and removal, City approval for the tower or antenna shall automatically expire.</p>
			<b>117.45 Application Requirements</b>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	KZC Section 117.45.7 requires that the proposed antenna height and equipment structure size be the minimum necessary.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	KZC Section 117.45.9 requires a notarized letter signed by the applicant stating that the personal wireless service facilities will comply with all the applicable federal land state laws, including specifically FCC and FAA regulations, and all City codes.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	KZC Section 117.45.10 requires that a notarized letter signed by the applicant stating that the antenna usage will not interfere with other adjacent or neighboring transmission or reception communications signals.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	KZC Section 117.45.11 requires compliance with adopted noise standards.
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	KZC Section 117.45.12 requires that the personal wireless services provider must demonstrate that it is licensed by the FCC, if required to be licensed under FCC.

Not Applicable	Complies	Condition to be added	Code Section
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	KZC Section 117.45.13 requires that the applicant if not a personal wireless services provider must submit proof of a lease agreement with an FCC licensed personal wireless service provider if such provider is required to be licensed by the FCC.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	KZC Section 117.45.14 requires that propagation maps be provided showing that the antennas are required for present and future network coverage in order to satisfy the requirements of the provider's grid system (see Attachment 5).
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	KZC Section 117.45.15 requires that if a site is within or adjacent to a residential zone, then a study shall be provided showing why alternative locations are not acceptable.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Section 117.45.16 requires that the proposed facility be designed and will provide services primarily for residents of the City and/or visitors within the City limits. See Attachment 5 for propagation maps.

#### IV. STATE ENVIRONMENTAL POLICY ACT (SEPA)

- ☒ SEPA is not required.  
☐ SEPA is required.

#### V. DEVELOPMENT REVIEW COMMITTEE

Additional comments and requirements placed on the project are found on the Development Standards Sheet, Attachment 6.

#### VI. FACILITY REGISTRATION

- A. Zoning Code Section 117.45.1 requires completion of a PWSF facility registration form prior to issuance of a building permit for the PWSF (see Attachment 1).
- B. Kirkland Municipal Code Section 26.08 requires that each telecommunications carrier register with the City Clerk. Prior to issuance of a building or right-of-way permit, the applicant shall provide the Building Department with proof that they have properly registered with the City Clerk.

#### VII. APPEALS AND JUDICIAL REVIEW

##### A. APPEALS

The following is a summary of the deadlines and procedures for appeals. Any person wishing to file or respond to an appeal should contact the Planning Department for further procedural information.

Section 145.60 of the Zoning Code allows the Planning Director's decision to be appealed by any affected party. The appeal must be in writing and must be delivered, along with any fees set by ordinance, to the Planning Department by 5:00 p.m., \_\_\_\_\_, fourteen (14) calendar days following the date of the Administrative Decision.

##### B. JUDICIAL REVIEW



Section 145.110 of the Zoning Code allows the action of the City in granting or denying this zoning permit to be reviewed in King County Superior Court. The petition for review must be filed within 21 calendar days of the issuance of the final land use decision by the City.

#### **VIII. APPENDICES**

Attachments 1 through 6 are attached.

1. Registration Form
2. (PWSF) Facility Annual Report Form
3. Vicinity Map /Applicant's Proposal
4. Notarized letter from applicant noting compliance with FAA regulations
5. Propagation map
6. Building Department development standards

#### **IX. PARTIES OF RECORD**

Applicant: Norris Bacho for Clearwire, 5808 Lake Washington Blvd., Suite 300, Kirkland WA 98033

Department of Planning and Community Development

Department of Public Works

Department of Building and Fire Services